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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

KIMBERLY WHITE, Plaintiff and Respondent, v. VERONICA GONZAGA, Defendant and Appellant.	F077448 (Super. Ct. No. 17CECG03990) **OPINION**

THE COURT[*]

APPEAL from a judgment of the Superior Court of Fresno County. Mark E. Cullers, Judge.

Moran Law Firm and Janay D. Kinder for Defendant and Appellant.

No appearance for Respondent.

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The trial court determined appellant Veronica Gonzaga and respondent Kimberly White had been harassing one another and in December 2017 issued restraining orders

[*] Before Franson, Acting P.J., Peña, J. and DeSantos, J.

against each of them pursuant to Code of Civil Procedure section 527.6.[1] Veronica appealed from the order restraining her from harassing Kimberly and Kimberly's two daughters. Kimberly did not appeal the restraining order issued against her.

Veronica contends the restraining order against her was not supported by substantial evidence. Alternatively, she contends the trial court abused its discretion by failing to have a court reporter preserve the record of the oral proceedings in the courtroom, which record was necessary for her to have meaningful access to appellate review of an order denying her various liberty interests. In addition, Veronica contends the facts presented with her motion for reconsideration justified the revocation of the restraining order against her.

We conclude the absence of a reporter's transcript of the hearing where the parties testified does not preclude a substantial evidence review of the trial court's findings of fact because the clerk's transcript contains written declarations that provide substantial evidence in support of the restraining order. Veronica's contention that the restraining order is based on lies, false reports, and bad faith is an attack on the trial court's implied credibility findings relating to whether Veronica threatened Kimberly. Credibility findings are subject to appellate review under an extremely deferential standard. As explained below, Veronica has failed to establish those credibility findings constitute reversible error. Finally, even considering the additional evidence Veronica presented with her motion for reconsideration, substantial evidence still supports the trial court's findings that Veronica threatened Kimberly and Kimberly's daughters. These threats are not a type of permissible self-defense and they provide adequate grounds for the restraining order.

We therefore affirm the restraining order, as modified by the trial court.

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1 Unlabeled statutory references are to the Code of Civil Procedure.

FACTS AND PROCEEDINGS

Kimberly and Dante Goodwin had a relationship that produced two daughters. At the times relevant to this proceeding, the daughters were five and one years old. Kimberly was born in 1984, is disabled with multiple sclerosis, and is unable to work. She was awarded social security disability as of October 26, 2017.

In 2017, Kimberly and Dante were involved in litigation in family court, which the Fresno County Superior Court assigned case No. 17CEFL05614. On October 17, 2017, Dante obtained a permanent restraining order against Kimberly in that case.

Kimberly's Petition Against Dante

On September 20, 2017, Kimberly filed a petition in case No. 17CEFL05614 seeking a restraining order against Dante. Kimberly asserted that on September 15, 2017, she left her daughters and a teenage son from a prior relationship with Dante. She contends Dante left to sell marijuana (he has a dispensary), leaving the children alone with Veronica and large amounts of marijuana. On November 8, 2017, the family court filed a notice of court hearing using Judicial Council form DV-109, which stated Kimberly's request for a restraining order against Dante would be heard on November 28, 2017, in Department 201. The notice stated her request for temporary restraining orders were all denied pending the hearing because (1) the facts set forth in her form DV-100 did not show reasonable proof of a past act or acts of abuse and (2) Kimberly had credibility issues. To support the latter point, the notice referred to the permanent restraining order issued against Kimberly in case No. 17CEFL05614.

Kimberly's Petition Against Veronica

On November 7, 2017, Kimberly filed a request for civil harassment restraining order seeking protection for herself and her two daughters from Veronica. Kimberly used mandatory Judicial Council form CH-100 (rev. Jan. 1, 2017) and the Fresno County Superior Court assigned the matter case No. 17CECG03990.

Kimberly's request asserted that on November 6, 2017, Veronica threatened her and her children by saying that she, Veronica, was going to harm the children and she can do anything she wants because she is with the children's father. Kimberly stated Veronica "keeps calling my place saying she is going to kick my ass and then take my kids" and Veronica had come to her house and tried to break in. Kimberly also stated that earlier, on October 28, 2017, Veronica made harassing phone calls, stating she would "beat my ass." Kimberly signed the request form under penalty of perjury.[2]

A law enforcement report of the Fresno Police Department was included with Kimberly's request for a restraining order. That document was based on an electronic or online report made by Kimberly describing the harassing phone calls. Also included was a Fresno Police Department event report generated when Kimberly contacted the police around 10:00 p.m. on October 29, 2017, and reported that someone was on her patio and tried to open her door. An officer was dispatched to her residence, but no suspect was present when the officer arrived.

Additional Phone Calls

On November 16, 2017, after a temporary restraining order had been issued against Veronica in this case, Kimberly reported receiving additional threatening phone calls from Veronica. An officer was dispatched to Kimberly's residence and spoke with her about the phone calls. The written police report describes what Kimberly told the officer about the threats made against her and her children. Kimberly also informed the officer of the existence of the temporary restraining order against Veronica. The report

[2] The appellate record includes a copy of a Fresno County police report describing an investigation conducted on November 1, 2017, of a complaint by Veronica. The complaint asserted that on October 27, 2017, Kimberly made a number of harassing phone calls. The officer listened to a recording of one of the calls and wrote in the report that Kimberly "sounded hostile."

summarized the interview by stating Kimberly "reports one harassing and threatening telephone call from her ex-boyfriend's current girlfriend."

Kimberly's declaration describing the events of November 16, 2017, stated Veronica called her and Kimberly recorded the conversation where Veronica threatened the lives of her and her children, saying "she had bullets for me and my family and merc me." A footnote in the declaration refers to an online urban dictionary and states "merc" means to beat up or kill someone.

The police report generated by the officer who went to Kimberly's residence included a note about a disturbance incident later that day involving Kimberly's sister, Tanisha, and another woman who went to Veronica's residence and exchanged words with Veronica. The November 16, 2017, confrontation between Tanisha and Veronica was described in a handwritten declaration of the woman who was with Tanisha at the time. The declarant stated Tanisha went to the residence to talk with Dante Goodwin unaware that Veronica was at home. The declarant stated she witnessed Veronica pull a weapon out of a black box, load the weapon, and point it at Tanisha. The declarant asserted that Veronica stated to Tanisha that she was going to shoot her.

Veronica's Response

On November 21, 2017, Veronica filed her response to Kimberly's request for a restraining order using mandatory Judicial Council form CH-120 (rev. Jan. 1, 2017). She stated, "I have never threatened Kim or her kids. That's a lie. [¶] I have no intention of harming her children." She also stated her only interest in the children was "for them to know their new baby brother or sister when he or she is born in June of 2018." She specifically denied ever calling Kimberly on October 28, 2017, and threatening her.

Veronica's response was accompanied by a completed Judicial Council form CH-800, proof of firearms turned in, sold, or stored. The form was signed by a licensed gun dealer and stated Veronica had transferred her Model 27 Glock to the dealer for storage

on November 21, 2017. The form also stated Veronica did not own, possess or control any other firearm.

Hearing Continued

At a November 27, 2017, hearing, the parties stipulated to a continuance. The minute order stated the temporary restraining order would remain in effect, the matter would be heard with case No. 17CECG03852,[3] and the hearing was continued to December 18, 2017. "Not recorded" was entered on the minute order after "Reporter/Tape." The minute order also stated: "Defense witness Donta Goodwin is present and sworn."

Evidentiary Hearing

On December 18, 2017, a combined hearing was held in the two cases. Kimberly was represented by an attorney and Veronica represented herself. "NR" was entered on the minute orders after "Reporter/Tape," meaning the proceedings were not electronically recorded or taken down by a court reporter. Accordingly, there is no reporter's transcript of the oral testimony presented at the hearing.

After the hearing, the trial court issued a civil harassment restraining order using Judicial Council form CH-130 in case No. 17CECG03990. The order restrained Veronica from harassing Kimberly, Kimberly's two daughters and Kimberly's teenage son. It also includes stay-away orders that specified a distance of at least 100 yards. In case No. 17CECG03852, the court issued a civil harassment restraining order using Judicial Council form CH-130, which prohibited Kimberly from harassing Veronica and Veronica's eight-year-old son.

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[3] Case No. 17CECG03852 is Veronica's request for a restraining order against Kimberly. Although Veronica's request was assigned a lower case number, it appears to have been filed on November 21, 2017, the same day Veronica filed her response to Kimberly's request. It is unclear why Veronica did not simply file a cross-petition in the first action in accordance with section 527.6, subdivision (h).

Motion to Reconsider

On December 29, 2017, Veronica filed a motion for reconsideration of the order granting a restraining order against her. The motion referred to the discovery of new facts relating to multiple attempted break-ins at Veronica's house and also stated Kimberly "was found to lack credibility by another court regarding a similar matter." Veronica argued that previously unconsidered facts justified the revocation of the restraining order against her. In the alternative, Veronica requested a modification of the protective order to allow her to possess a firearm. She stated the "request is made on the grounds that [she] is *not the aggressor* in the matter at bar."

In January 2018, Kimberly filed an objection to Veronica's motion for reconsideration. Her objection was accompanied by a handwritten declaration from a man stating that in the latter part of 2017, Dante and Veronica approached him and offered him medical marijuana in exchange for a written statement saying he overheard Kimberly saying threatening statements towards Veronica. The declaration stated, "they were asking me to lie for a bribe."

After a hearing on February 15, 2018, counsel for Veronica submitted a proposed order to the trial court. On March 16, 2018, the court signed and filed the order, which granted Veronica's request in part by modifying the restraining order "to allow [Veronica] to maintain possession of her firearm within her home."

Appeal & Record

In April 2018, Veronica filed a notice of appeal. Veronica's notice designating record on appeal did not request the clerk's transcript include any documents other than the first seven that are preprinted in item 4.a. in Judicial Council form APP-003 (rev. Jan. 1, 2018). For example, Veronica did not ask the clerk to include a copy of the form CH-100 that Kimberly used to file her request or the form CH-120 that Veronica used for her response.

Veronica's notice designating record also requested a reporter's transcript of the December 18, 2017, hearing. In July 2018, a deputy clerk's declaration was filed in the superior court that stated: "The notice designated … oral proceedings for the hearing held on December 18, 2017. A review of the court's record indicate that this proceeding was not reported and therefore a record of that oral proceeding will not be provided."

In November 2018, Kimberly and the attorney who represented her in the superior court were notified that a respondent's brief had not been filed and informed them that if a brief or good cause for relief was not received within 15 days, the appeal would be submitted for decision on appellant's opening brief. No respondent's brief was filed by Kimberly.

On March 27, 2019, this court issued an order directing the clerk of the superior court to correct a minor omission from the clerk's transcript and also directed the clerk to augment the record with other documents filed in the superior court that contained arguments or evidence submitted by the parties. (See Cal. Rules of Court, rule 8.155(a)(1)(A).) We determined the documents might contain information relevant to (1) the application of the substantial evidence standard of review and (2) Veronica's argument about the absence of a reporter's transcript—an argument that implicates the constitutional right to meaningful access to the appellate courts.

DISCUSSION

I. BASIC LEGAL PRINCIPLES

A. Civil Harassment Injunctions

Section 527.6, subdivision (a)(1) provides that a victim of "harassment … may seek a temporary restraining order and an order after hearing prohibiting harassment." The statute defines "harassment" as follows:

> "[U]nlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The

> course of conduct must be that which would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner." (§ 527.6, subd. (b)(3).)

The three actions listed in the definition of harassment also have statutory definitions. First, "[u]nlawful violence" refers to "any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but does not include lawful acts of self-defense or defense of others." (§ 527.6, subd. (b)(7).) Second, a "threat of violence" may be communicated in a statement or by a course of conduct and is "[c]redible" if it "would place a reasonable person in fear for his or her safety or the safety of his or her immediate family" and if it serves no legitimate purpose. (§ 527.6, subd. (b)(2).) Third, "[c]ourse of conduct" means "a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose." (§ 527.6, subd. (b)(1).) The definition provides a nonexclusive list of examples of a course of conduct, "including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means." (*Ibid*.)

A party may seek a temporary order and an order after hearing by filing a petition requesting that relief. (See § 527.6, subds. (d), (g).) The party responding to the petition "may file a response that explains, excuses, justifies, or denies the alleged harassment or may file a cross-petition under this section." (§ 527.6, subd. (h).) A responding party is "entitled, as a matter of course, to one continuance, for a reasonable period, to respond to the petition." (§ 527.6, subd. (*o*).) Either party may request and obtain a continuance of the hearing upon a showing of good cause. (§ 527.6, subd. (p)(1).) The statute establishes deadlines for holding a hearing on the petition, which are affected by whether a temporary restraining order was granted. (§ 527.6, subds. (f), (g).)

"At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an order shall issue prohibiting the harassment." (§ 527.6, subd. (i).) An injunction prohibiting "future conduct is only authorized when it appears

that harassment is likely to recur in the future." (*Harris v. Stampolis* (2016) 248 Cal.App.4th 484, 496 (*Harris*).) The order "may have a duration of no more than five years." (§ 527.6, subd. (j)(1).)

B. Standard of Review

"We review the trial court's decision to grant the restraining order for substantial evidence." (*Harris*, *supra*, 248 Cal.App.4th at p. 497.) "'The appropriate test on appeal is whether the findings (express and implied) that support the trial court's entry of the restraining order are justified by substantial evidence in the record. [Citation.] But whether the facts, when construed most favorably in [petitioner's] favor, are legally sufficient to constitute civil harassment under section 527.6, and whether the restraining order passes constitutional muster, are questions of law subject to de novo review.'" (*Harris*, *supra,* at p. 497; see *R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 188 [existence or nonexistence of substantial evidence is a question of law].)

When "assessing whether substantial evidence supports the requisite elements of willful harassment, as defined in ... section 527.6, we review the evidence before the trial court in accordance with the customary rules of appellate review. We resolve all factual conflicts and questions of credibility in favor of the prevailing party and indulge in all legitimate and reasonable inferences to uphold the finding of the trial court if it is supported by substantial evidence which is reasonable, credible and of solid value." (*Schild v. Rubin* (1991) 232 Cal.App.3d 755, 762.) Appealed orders are presumed correct, and the burden is on an appellant to affirmatively demonstrate the trial court committed an error that justifies reversal of the order. (*Jameson v. Desta* (2018) 5 Cal.5th 594, 609; *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.)

C. Findings Relating to a Witness's Credibility

Credibility findings by a trial court, expressed or implied, are difficult to challenge successfully because appellate courts give those findings great deference and appellants are confronted with one of the most demanding tests for establishing error.

If the trial court finds certain testimony of a witness is *credible*, an appellate court must accept that credibility finding unless the testimony is incredible on its face, inherently improbable or wholly unacceptable to reasonable minds. (*Nevarez v. Tonna* (2014) 227 Cal.App.4th 774, 786; see *Consolidated Irrigation Dist. v. City of Selma* (2012) 204 Cal.App.4th 187, 201 [a trial court's credibility findings cannot be reversed on appeal unless that testimony is incredible on its face or inherently improbable].)

In contrast, when a trial court finds all or part of a witness's testimony is *not credible*, appellate courts apply the following rule: "A trier of fact is free to disbelieve a witness, even one uncontradicted, if there is any rational ground for doing so. [Citations.]" (*In re Jessica C.* (2001) 93 Cal.App.4th 1027, 1043.) Rational grounds for disbelieving a witness include the factors listed in Evidence Code section 780, which includes the witness's interest in the matter. (Evid. Code, § 780, subd. (f); see *Pierce v. Wright* (1953) 117 Cal.App.2d 718, 723 [court is not bound to believe interested witness].) Under these principles, "the trier of the facts is not required to believe everything that a witness says even if uncontradicted. [Citations.]" (*Guerra v. Balestrieri* (1954) 127 Cal.App.2d 511, 515.)

II. SUBSTANTIAL EVIDENCE SUPPORTS THE ORDER

A. Evidence of Harassment by Veronica

1. Course of Conduct

Veronica contends the evidence presented was insufficient to support the trial court's finding of harassment. Initially, we address Veronica's argument that the evidence did not establish a course of conduct constituting harassment. (See § 527.6, subd. (b)(1) ["[c]ourse of conduct" defined].) "In order to obtain a restraining order

under section 527.6, a trial court needs only to find unlawful harassment exists and that it is probable that an unlawful act will occur in the future. As defined, harassment is either (1) unlawful violence, (2) a credible threat of violence, or (3) a course of conduct. (§ 527.6, subd. (b)(3).) There is no requirement that the trial court must find harassment based on two out of the three circumstances described under section 527.6, subdivision (b)(3)." (*Harris*, *supra*, 248 Cal.App.4th at p. 502.) In short, a single credible threat of violence coupled with the probability that an unlawful act will occur in the future is an adequate ground for a restraining order. Kimberly was not required to show Veronica's actions constituted a "course of conduct."

2. Credible Threat of Violence

Based on the record before us, it appears the trial court found Veronica harassed Kimberly by making at least one "credible threat of violence" as that phrase is used in section 527.6, subdivision (a)(1). Such a threat may be communicated in a statement and is "credible" if it "would place a reasonable person in fear for his or her safety or the safety of his or her immediate family" and if it serves no legitimate purpose. (§ 527.6, subd. (b)(2).)

The evidence supporting Kimberly's claim that Veronica made credible threats of violence includes Kimberly's request for civil harassment restraining order on Judicial Council form CH-100, which Kimberly signed under penalty of perjury and is the equivalent of a declaration. The evidence also includes Kimberly's declaration dated November 28, 2017. The declaration refers to threats made by Veronica in September 2017, on November 6, 2017, and on November 16, 2017. Kimberly's statement that Veronica said she had bullets for Kimberly and Kimberly's family is supported in part by circumstantial evidence presented to the court. Veronica's form CH-800 states she placed her Model 27 Glock in storage on November 21, 2017, which supports the inference that Veronica had a gun on November 16, 2017. Veronica's possession of a

gun, which is a factor that would increase the likelihood and credibility of a threat about having bullets for someone. In addition, the declaration of the woman who was with Tanisha at Veronica's residence on November 16, 2017, stated she saw Veronica load a weapon, point it at Tanisha, and say she was going to shoot Tanisha. This declaration is further evidence that Veronica had access to a gun and ammunition and also is evidence that Veronica was willing to point a loaded gun at another person.

We conclude the form CH-100 and the declaration of Kimberly provide substantial evidence supporting the finding of fact that Veronica made a credible threat of violence against Kimberly. It is well-established under California law that the testimony of a single witness may alone constitute substantial evidence. (Evid. Code, § 411, *In re Marriage of Mix* (1975) 14 Cal.3d 604, 614.) Furthermore, Kimberly's statements are supported by inferences drawn from other declarations in the record.

3. Legitimate Purpose Behind Threat

A credible threat of violence may serve as the basis for a restraining order only if it "serves no legitimate purpose." (§ 527.6, subd. (b)(2).) Veronica's opening brief argues "the trial court abused its discretion because [Veronica's] actions were self-defense, exempting a claim for harassment." Veronica might be contending any threat of violence she made was justified because Kimberly was the aggressor and, therefore, Veronica's threat of violence served a "legitimate purpose" as that term is used in subdivision (b)(3) of section 527.6. This justification for any threat of violence was impliedly rejected by the trial court.

"[W]here the issue on appeal turns on a failure of proof at trial, the question for a reviewing court becomes whether the evidence compels a finding in favor of the appellant as a matter of law. [Citations.] Specifically, the question becomes whether the appellant's evidence was (1) 'uncontradicted and unimpeached' and (2) 'of such a character and weight as to leave no room for a judicial determination that it was

insufficient to support a finding.' [Citation.]" (*In re I.W.* (2009) 180 Cal.App.4th 1517, 1528; see *Dreyer's Grand Ice Cream, Inc. v. County of Kern* (2013) 218 Cal.App.4th 828, 838 (*Dreyer's*).) On this record, Veronica cannot demonstrate the trial court was compelled as a matter of law to accept that justification. Simply put, any threats that Kimberly made against Veronica could not have justified any threat Veronica made against Kimberly and Kimberly's daughters. A threat against the children, like a threat against Kimberly, does not constitute lawful self-defense. Veronica has cited no statute or case law supporting the argument that a person threatened by another may legitimately respond to the threat by threatening violence against the other person or that person's children.

3. A Telephonic Threat

Also, Veronica's argument that her telephone records establish she made only two phone calls to Kimberly is somewhat off the point because the determination of who made a telephone call does not establish whether a threat was made during the telephone conversation. In short, a person receiving a telephone call is capable of making threats of violence during an ensuing conversation. Thus, Veronica's argument that her two telephone calls to Kimberly were insufficient to establish harassment for purposes of section 527.6, subdivision (b)(1) is not based on evidence that compelled the trial court to find Veronica made no threat during a phone call initiated by Kimberly.

B. Credibility Findings

Without referring to the applicable standard of appellate review, Veronica contends this court should conclude her testimony was credible and Kimberly lacked credibility. Under the applicable standard, the superior court sitting as the trier of fact was free to disbelieve Veronica's statements that she did not threaten Kimberly "if there is any rational ground for doing so. [Citations.]" (*In re Jessica C.*, *supra*, 93 Cal.App.4th at p. 1043.) Here, rational grounds for disbelieving Veronica's statements

about not threatening Kimberly existed because of Veronica's personal interest in the subject matter being litigated. (Evid. Code, § 780, subd. (f).) Accordingly, the trial court did not err when it determined Veronica's testimony that she never threatened Kimberly was not credible.

Similarly, the trial court's implied finding that Kimberly's statements about Veronica threatening Kimberly and her daughters were credible withstands scrutiny under the applicable standard of review. We must accept that credibility finding unless the testimony is incredible on its face, inherently improbable or wholly unacceptable to reasonable minds. (*Nevarez v. Tonna*, *supra*, 227 Cal.App.4th at p. 786.) Here, as described earlier, Kimberly's statements are supported by inferences drawn from other evidence. As such, Kimberly's statements that Veronica threatened Kimberly and her children are not incredible on their face or inherently improbable. Consequently, Veronica has not demonstrated the trial court erred in impliedly finding Kimberly's testimony about the threats of violence was credible.

In summary, the trial court's implied credibility findings are not erroneous under the applicable standard of appellate review and we must uphold them.

III. REPORTER'S TRANSCRIPT AND ABUSE OF DISCRETION

Veronica argues the trial court abused its discretion by failing to have a court reporter present, which denied her a complete and accessible record of the substantive courtroom proceedings. As explained below, we reject this argument because it is insufficiently developed. First, it does not identify the source of the purported discretionary authority of the trial court over the presence of a court reporter in a civil proceeding. Second, it does not show how the trial court exercised that discretion in a manner that exceeded the bounds of reasons. (See *Continental Baking Co. v. Katz* (1968) 68 Cal.2d 512, 527 [discretion is abused in the legal sense when the trial court exceeds the bounds of reason].)

Recently, our Supreme Court discussed the absence of a court reporter in a proceeding involving an indigent litigant who had obtained a waiver of fees from the court. (*Jameson v. Desta*, *supra*, 5 Cal.5th 594.) The court's discussion demonstrates that the subject of court reporters is addressed at many levels of the legal framework. At the local level, a superior court may have a policy about providing court reporters in civil matters and also may have a more formal local rule. In the legal hierarchy, local policies and local rules are subject to the California Rules of Court, including rules 2.950 (sequential list of reporters), 2.952 (electronic recording as official record), 2.956 (court reporting services in civil cases), and 2.958 (assessing fee for official reporter). In turn, those rules are subject to California statute, including the provision stating an official reporter must be provided to make a verbatim record of all trial court proceedings "[i]n a civil case, on the order of the court or at the request of a party." (§ 269, subd. (a)(1).) Local policies, local rules, state rules and state statutes are subject to the California Constitution. In turn, the state constitution is subject to the supreme law of the land, the United States Constitution, which sits atop our hierarchy of laws.

Here, Veronica has not identified a local policy or local rule that governed the use of a court reporter in her proceedings before the trial court. It follows that she has not shown the trial court failed to abide by the policy or rule or, alternatively, the policy or rule was contrary to a state-wide rule, a state statute, the California Constitution, or the United States Constitution. Similarly, she has cited no case law holding a trial court had a sua sponte duty to order a court reporter make a record of the proceedings when the parties in the civil matter did not request a reporter and follow the steps for obtaining one. In *Jameson v. Desta*, our Supreme Court stated, "The superior court could understandably conclude that its reduced resources required it to discontinue its policy of making official court reporters *generally* available in civil cases," and concluded the new policy should have included an exception for cases involving a fee waiver recipient. (*Jameson v. Desta*, *supra*, 5 Cal.5th at pp. 618–619.) In view of the fact that Veronica

has paid the fees applicable to this appeal and the statement in *Jameson v. Desta* about the reasonableness of a policy under which court reporters are not generally made available in civil matters due to the reduced resources available to a superior court, we conclude Veronica has not established the trial court abused any discretionary authority it might have had or directly violated a requirement imposed by rule, statute or a constitution.

IV. MOTION TO RECONSIDER

Veronica contends she presented previously unconsidered facts in her motion for reconsideration that justified the trial court granting her motion and revoking the restraining order against her. Veronica argues the trial court committed an abuse of discretion in finding that Kimberly met her burden of proof regarding the restraining order.

We reject Veronica's argument that Kimberly failed to carry her burden of proof because, as discussed in part II of this opinion, the record contains substantial evidence supporting the trial court's finding that Veronica made a credible threat of violence against Kimberly and her children. Such a threat justifies the imposition of the restraining order. The existence of this substantial evidence satisfies the applicable standard of appellate review and precludes this court from holding the trial court was required to grant the motion to reconsider and revoke the restraining order against Veronica.

DISPOSITION

The restraining order, as modified by the trial court, is affirmed. The parties shall bear their own costs on appeal.

The court grants its own motion and takes judicial notice of (1) the law and motion minute order and (2) the Civil Harassment Restraining Order After Hearing, both of

which were filed on December 18, 2017, in Fresno County Superior Court case No. 17CECG03852.